

UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE

David T. Kenney, Executor
Of the Estate of Liko Peter Kenney

v.

Civil No. 10-cv-181-PB

Gregory Willis Floyd, et al.

O R D E R

On today's date, a preliminary pretrial conference was held in this case. The following attorneys appeared: Charles F.A. O'Leary and Harold Burbank for plaintiff, and Daniel J. Mullen for defendants Mark R. Montminy, Mark Taylor, Norman Bruce McKay and Franconia NH Board of Selectmen. Defendant Gregory Willis Floyd did not appear. The court approves the Proposed Discovery Plan (Doc. No. 15) with the following amendments:

Trial: Two-week period beginning April 3, 2012.

Discovery Deadline: November 1, 2011.

Depositions: A maximum of 15 depositions by plaintiff, and a maximum of 15 depositions (total) by defendants.

The parties concurred with respect to each of the aforementioned amendments.

With respect to Defendant Floyd, the record reflects that the complaint was served in-hand on Floyd on August 9, 2010. Floyd did not file an Answer within the 21-day timeframe. Fed. R. Civ. P. 12(a)(1)(A)(i). On September 21, 2010, the court received a letter

from Floyd (Doc. No. 12), to which Daniel J. Lynch, Chief Deputy Clerk, responded on September 21, 2010 (Doc. No. 13). The court liberally construes Floyd's letter dated September 14, 2010, as an Appearance in this case. In the event Floyd intends to file an Answer to the Complaint, Floyd must first file a motion seeking an extension of time to do so, as the deadline has passed. Floyd must file any such motion on or before November 24, 2010. If Floyd fails to file a motion seeking such extension, the clerk shall enter Floyd's default, Fed. R. Civ. P. 55(a), and all allegations in the complaint will be deemed true as to him. Franco v. Selective Ins. Co., 184 F.3d 4, 9 (1st Cir. 2002).

SO ORDERED.



Landya B. McCafferty
United States Magistrate Judge

Date: November 2, 2010

cc: Daniel J. Mullen, Esq.
Charles F.A. O'Leary, Esq.
Harold Burbank, Esq.
Gregory Willis Floyd, pro se